

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL WRIT PETITION NO. 1100 OF 2018

Satish Mahadeorao Uke
aged 40 years, Occupation : Private
R/o. Parvati Nagar, Nagpur.

.... **PETITIONER.**

// VERSUS //

1. Additional Engineer, P.W.D. Sub-Div. No.1,
Nagpur, Office at Ravi Bhavan, Civil Lines,
Nagpur.
2. Joint Secretary,
Department of Law & Judiciary,
Civil Lines, Nagpur.
3. Executive Engineer, Public Works Dept.
Div. No.1, Nagpur.
4. P.S.O. Police Station, Sadar, Nagpur.
5. P.S.O. Police Station, Sitabuldi, Nagpur.
6. Deputy Collector, Protocal Dept.
Collector Office, Civil Lines, Nagpur.

.... **RESPONDENTS.**

Shri Satish M. Uke, Petitioner in person
Shri Sunil Manohar, Sr.Adv. a/w.Shri Sumant Deopujari, PP for Respondents.

CORAM : Z.A.HAQ AND M.G.GIRATKAR, JJ.
DATED : NOVEMBER 25 2019.

ORAL ORDER : (PC.)

1. Heard.

2. By this petition, the petitioner has prayed for directions to the respondents as per the following prayers:

“In view of the above facts and circumstances, it is most respectfully prayed that this Hon’ble Court may be pleased to:-

a) In view of the facts and circumstances as stated above in the instant petition, in the interest of justice, this Hon’ble Court may be pleased to direct the respondents to keep the relevant record in safe custody in original form in respect of the incidences started prior to the death of Judge Shri B.H. Loya till today which includes the series of deaths related with each other i.e. of Adv. Shri Shrikant Khandalkar, Adv. Shri Prakash Tombre, Judge Shri B.H. Loya; as well as the incidences occurred with the instant petitioner which harms his life and liberty; as well as the matters related with atomic technology and

Research and Development work of Government of India which is discussed in the instant petition as follows:

i) direct the respondent no.4 Police Station Officer, Sadar, Nagpur to maintain, preserve and keep in safe custody all the relevant record at least for 10 years in original form for which time period for maintaining such record is not specified in law or provided period is less than 10 years including each and every page, notes and note sheets of files, original medical report & papers, First information Reports, statements, case diary, station diary, duty registers, panchnama, inquiry reports of the State Intelligence Department or any such reports of State Government and all other relevant documents that are required to be maintained by the Police Station as per the Police Manual, Criminal Procedure Code, Law of Evidence and any other law, all the electronic devices and electronic and digital record in safe custody under weatherproof and safe shelter including shelter to protect the electronic and digital data from such as magnetic field or any such scientific mode which can deteriorate electronic and digital devices and data, the papers, evidences in any form regarding the death of Adv. Shri Shrikant Khandalkar and Judge Shri B.H. Loya including all the papers received from Medical Hospital, Nagpur regarding post mortem and chemical analysis (including Post Mortem Reports, Advance Reports, Viscera

forwarding forms sent Chemical Analyser, Nagpur or any other forensic and scientific laboratory located at any place);

ii) direct the respondent no.5 Police Station Officer, Sitabuldi, Nagpur to maintain, preserve and keep in safe custody all the relevant record at least for 10 years record in original form for which time period for maintaining such record is not specified in law or provided period is less than 10 years including each and every page, notes and note-sheets of files, original medical reports & papers, First Information Reports, statements, case diary, station diary, duty registers, panchnama, inquiry reports of the State Intelligence Department or any such reports of State Government and all other relevant documents that are required to be maintained by the Police Station as per the Police Manual, Criminal Procedure Code, Law of Evidence and any other law, all the electronic devices and electronic and digital record in safe custody under weatherproof and safe shelter conditions including safe custody to protect the electronic and digital data from such as magnetic field or any such scientific mode which can deteriorate electronic and digital devices and data, the papers, evidences in any form regarding the death of Adv. Shri Shrikant Khandalkar and Judge Shri B.H.Loya;

iii) direct the respondent no.1 Additional Engineer, Public Works Sub-Division No.1, Office at Ravi Bhavan, Civil Lines, Nagpur to maintain, preserve and keep in safe custody the record in original form regarding the letter received for reservation of residential suits and cottages at Ravi Bhavan, Nagpur; reservation register at Ravi Bhavan, Nagpur; Occupancy register and payment receipts and counterfoil, all of the period from 15th November 2014 till 30th March 2015.;

iv) respondent no.2 Joint Secretary, Department of Law and Judiciary, Civil Lines, Nagpur be directed to maintain, preserve and keep the relevant record in original form in safe custody about the issuance of the letter dated 27/11/2014 for the reservation of one VIP Air Conditioned Suit at Ravi Bhavan, Nagpur as well as direct the concerned respondent to keep the Hard Disk of the concerned electronic instrument on which the said letter got typed for the stay of Judge Shri B.H. Loya and Judge Shri Vinay Joshi, both the District and Sessions Judge, Mumbai for government work from 30.11.2015 (Early morning) till

01.12.2014 till morning 7^o Clock; application under Right to Information (RTI) moved by the instant petitioner on 30.05.2018 and 31.05.2018 and information supplied to the petitioner vide letter dated 02.06.2018 as well as electronic mail (Email) record forwarding the said information to the Joint Secretary via Email; the application under Right to Information (RTI) moved by the instant petitioner on 15.09.2018 and 19.09.2018 and information supplied to the petitioner vide letter dated 21.09.2018 as well as electronic mail (Email) record forwarding the said information to the Joint Secretary via Email;

v) direct the respondent no.6 Deputy Collector (Protocol Department), Collector Office, Civil Lines, Nagpur to maintain, preserve and keep the protocol information received to that office through electronic email, telephonic message/ by letters regarding the protocol including the log book of the vehicle provided as well as residential arrangement for staying given to any person from the period 25.11.2014 till 30.03.2015 including the protocol in the name of Shri Ratankumar Sinha, Chairman, Atomic Energy Commission and Secretary, Department of Atomic Energy and Lt. Col. Sushant Dangre with his family, SPG of Hon'ble Prime Minister (protocol dated 30.11.2014 till 02.12.2014);

vi) direct the respondents to place authenticated copies of the above referred record, paper, physical as well as electronic and digital or any other type of record, in this petition;

b) pass such other or further relief in favour of the Petitioner or in the matter which may deem fit and proper by this Hon'ble Court."

3. At the outset, learned Senior Advocate appearing for the respondents pointed out the judgment delivered in the case of *Tehseen Poonawalla vs. Union of India*, reported in **(2018) 6 SCC 72**, particularly paragraph Nos. 102 to 105, which read as follows:

“102. For the above reasons, we have come to the conclusion that there is absolutely no merit in the writ petitions. There is no reason for the Court to doubt the clear and consistent statements of the four judicial officers. The documentary material on the record indicates that the death of Judge Loya was due to natural causes. There is no ground for the Court to hold that there was a reasonable suspicion about the cause or circumstances of death which would merit a further inquiry.

103. The hearings commenced on 2-2-2018 and ended on 16-3-2018. The batch of cases was heard on 2-2-2018, 5-2-2018, 9-2-2018, 12-2-2018, 19-2-2018, 5-3-2018, 8-3-2018, 9-3-2018 and 16-3-2018. Having regard to the large volume of work, we had considered it appropriate to list the hearings at 2 p.m. on Mondays and Fridays, after the miscellaneous cases had been dealt with. The conduct of the petitioners and the intervenors is, as we have indicated, lacking in bona fides and reveals a misuse of judicial process.

104. The petitions shall stand dismissed. The transferred cases and pending applications, if any, are also disposed of.

Transferred Case (Criminal) No.2 of 2018

105. This transferred case was heard together with the accompanying group of cases in which judgment has been delivered today. Insofar as the circumstances relating to the death of Judge Loya are concerned, all issues raised in that connection in the present case shall stand governed by the judgment delivered by this Court. Since the case also raises certain other matters (other than the death of Judge Loya), the learned counsel requested this Court to remit the proceedings back to enable the petitioner to pursue before the High Court the reliefs sought on matters other than the death of Judge Loya. We find the request to be fair and proper. We accordingly direct that the present case shall be remitted back to the Nagpur Bench of the High Court of Judicature at Bombay. However, we clarify that the circumstances relating to the death of Judge Loya which have been dealt with by this Court in the judgment delivered today stands concluded and the High Court would be at liberty to deal with other issues raised in the petitions/case.”

In view of the above observations made by the Hon'ble Supreme Court, the petitioner, who appears in person, filed pursis dated 25th November 2019 stating that he is not pressing the prayer clauses a(iii), a(iv) and a(v) before this Court and would be approaching the Hon'ble Supreme Court in that regard.

Hence, the prayer clauses a(iii), a(iv) and a(v) of the petition are **dismissed** as not pressed.

4. As far as prayer clause a(i) and a(ii) are concerned, the petitioner is seeking directions to the respondent No.4-Police Station Officer, Sadar, Nagpur and respondent No.5-Police Station Officer, Sitabuldi, Nagpur to maintain, preserve and keep in safe custody the relevant record, which according to the petitioner have nexus with the deaths of Shri Shrikant Khandalkar, Advocate, Shri Prakash Thombre, Advocate and Shri B.H. Loya, Judge, at least for ten years in original form. The petitioner has given description of certain documents which he wants to be preserved. The petitioner submitted that though as per the directions given by the Hon'ble Supreme Court in the above referred judgment, any issue relating to the incident of unfortunate death of Shri Loya, Judge cannot be examined now by any Court, the Hon'ble Supreme Court remitted Criminal P.I.L. No. 1 of 2018 to this Court to enable the petitioner in that petition to pursue the

other reliefs except the relief relating to the unfortunate death of Shri Loya, Judge. At the time of hearing, the petitioner informed that Criminal PIL No. 1 of 2018 is withdrawn and therefore, the petitioner is pressing the prayers a(i) and a(ii). It is pointed out that the investigation in the case of death of Shri Khandalkar, Advocate has not been fruitful and the Assistant Commissioner of Police, Sadar Division, Nagpur has approved the summary as proposed and has directed that the property be destroyed. The Assistant Commissioner of Police, Sadar Division, Nagpur approved the summary on 3rd April 2017 as reflected by the document placed on record at page No.12 along with points of submission and the arguments. Neither the learned Senior Advocate representing the respondents nor the petitioner are aware about further progress of the matter. As far as outcome of the investigation in the case of unfortunate death of Shri Thombre, Advocate is concerned, again learned Senior Advocate and the petitioner are not aware about its progress and/ or outcome.

5. The petitioner is seeking Writ of Mandamus against the respondents directing them to preserve the record for at least 10 years, reeling under the belief that something may happen in future for which the records would be required. In our view, Mandamus cannot be issued to the public servants/ officers directing them to do something or take some action only because the citizen feels that it is required. Nothing is pointed out to us on the basis of which we can exercise jurisdiction under Article 226 of the Constitution of India and issue Writ of Mandamus as sought by the petitioner.

6. Various documents are placed on record to urge that the petitioner is a victim of highhandedness of the respondents who acted on dictates of the then Chief Minister of the State. It is pointed out that the Advocate, who had represented the particular candidate in Summary Criminal Case No. 231 of 1996 and Regular Criminal Case No.343 of 2003, represented the Returning Officer in Criminal Writ Petition No. 983 of 2016 which was filed by the petitioner making grievance about the illegalities committed in acceptance of the nomination form of that candidate.

It is further pointed out that the learned Senior Advocate who is now engaged by the respondents to oppose the present petition, had represented the same candidate (who later on became Chief Minister of the State), in Election Petition No.1 of 2014 which was filed by the petitioner against that candidate. Several documents are pointed out to argue that one particular Additional Public Prosecutor appeared in most of the matters filed by the petitioner or in which the petitioner was party and made incorrect statements before the Court to tarnish the image of the petitioner.

7. Though all the documents on record are pointed out, in our view, it is not necessary to refer them for considering the substantive issue raised by the petitioner about preservation of the documents on record which, according to the petitioner, have nexus with the unfortunate incidents of

deaths of Shri Khandalkar, Advocate and Shri Thombre, Advocate. As recorded earlier, it would not be proper for this Court to issue Writ of Mandamus as sought by the petitioner just for asking.

8. Further more, we find that according to the petitioner, the incidents of unfortunate deaths of Shri Khandalkar, Advocate and Shri Thombre, Advocate are related to the incident of unfortunate death of Shri Loya, Judge.

Prima-facie, we are not satisfied with the submissions made by the petitioner. Hence, we are not inclined to exercise extraordinary jurisdiction under Article 226 of the Constitution of India and issue Writ of Mandamus as sought by the petitioner, and for the same reasons prayer clause (a)(vi) also cannot be granted.

In view of the above, the Criminal Writ Petition is **dismissed**.

No costs.

(M.G.GIRATKAR, J)

(Z.A.HAQ, J)

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